

**INDIVIDUAL RULES AND PRACTICES IN CIVIL CASES**

**J. Paul Oetken**  
**United States District Judge**  
**Southern District of New York**

**Chambers**  
Room 2101  
40 Foley Square  
New York, NY 10007  
(212) 805-0266

**Courtroom**  
Courtroom 706  
40 Foley Square  
Courtroom Deputy:  
Bruce Hampton  
(212) 805-4701

Email: OetkenNYSDchambers@nysd.uscourts.gov

Unless otherwise ordered by the Court, these Individual Rules apply to all civil matters before Judge Oetken, unless—in a civil *pro se* case—they conflict with the supplementary Individual Rules and Practices in Civil *Pro Se* Cases (available at <https://www.nysd.uscourts.gov/hon-j-paul-oetken>), which control. If a case has been referred to a magistrate judge for general pretrial purposes, the magistrate judge’s individual rules will control with respect to all matters within the scope of the reference.

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## 1. Guidelines for All Submissions

- A. **Text-Searchable Submissions.** *Every* submission should be in text-searchable format created by converting the document electronically to PDF by computer (that is, *not* by scanning a printed document). If a PDF is created by scanning a printed document (for instance, in the case of a pre-existing documentary exhibit), the party should use software to make the document text searchable whenever possible.
- B. **Amended or Corrected Filings.** Any amended or corrected filing shall be filed with a redline showing all differences between the original and revised filing.
- C. **No Courtesy Copies.** Unless the Court orders otherwise, or as provided otherwise in these Rules (see, e.g., paragraph 6(C)(iv) regarding sealed cases), parties should *not* submit courtesy copies of any submissions.

## 2. Communications with Chambers

- A. **Letters and Letter-Motions.** Except as otherwise provided below, communications with the Court should be by letter or letter-motion, filed electronically on ECF. Letters seeking relief should (if consistent with the

[S.D.N.Y. Local Rules](#) and the S.D.N.Y. [Electronic Case Filing Rules and Instructions](#)) be filed on ECF as letter-motions in accordance with paragraph 4(A) below, *not* as ordinary letters.

Unless otherwise ordered by the Court, letters (including letters regarding discovery disputes) may not exceed four pages in length. Letters solely between parties or their counsel or otherwise not addressed to the Court may not be filed on ECF or otherwise sent to the Court (except as exhibits to an otherwise properly filed document).

- B. Telephone Calls and Emails.** Communications with Chambers, including requests for extensions or adjournments, shall be by letter or letter-motion filed on ECF in accordance with paragraphs 2(A) and 4(A). For *urgent* matters requiring immediate attention (i.e., in less than one business day), call Chambers at (212) 805-0266. Technical questions pertaining to ECF filings should be directed to the ECF Help Desk at [helpdesk@nysd.uscourts.gov](mailto:helpdesk@nysd.uscourts.gov) or (212) 805-0800. Counsel may *not* submit substantive case-related communications by email without leave of the Court. Counsel should attempt to include on any substantive call to Chambers counsel for all parties and, if unsuccessful. Court staff generally will not answer substantive questions or interpret procedural rules on ex parte calls.
- C. Hand Deliveries.** Hand-delivered mail should be left with the Court Security Officers at the Worth Street entrance of the Daniel Patrick Moynihan United States District Courthouse at 200 Worth Street, New York, NY 10007 and may not be brought directly to Chambers. If the hand-delivered letter is urgent and requires the Court's immediate attention, ask the Court Security Officers to notify Chambers that an urgent filing has arrived that needs to be retrieved by Chambers staff immediately.
- D. Requests for Adjournments or Extensions of Time.** Before requesting an adjournment or an extension of time, parties must first seek consent from the opposing party or parties—and parties are strongly encouraged to consent to reasonable requests. All requests for adjournments or extensions of time must be made in writing and filed on ECF as letter-motions, *not* as ordinary letters, proposed stipulations, or proposed orders. The letter-motion must state: (1) the original deadline and the proposed new deadline; (2) whether the adversary consents and, if not, the reasons given by the adversary for refusing to consent; (3) the number of previous requests for adjournment or extension, and whether those previous requests were granted or denied; and (4) the reasons for the requested adjournment or extension. If the extension will affect any other deadlines in the case, the party seeking the extension should propose amendments to those deadlines as well. Requests for extensions of deadlines regarding a

matter that has been referred to a magistrate judge shall be addressed to that assigned magistrate judge.

Absent an emergency, any request for extension or adjournment shall be made *at least 48 hours* prior to the deadline or scheduled appearance. Requests for extensions will ordinarily be denied if made after the expiration of the original deadline.

- E. Related and Consolidated Cases.** After an action has been accepted as *related* to a prior filing, all future court papers and correspondence must contain the docket number of the new filing as well as the docket number of the case to which it is related (e.g., 12-CV-1234 [rel. 11-CV-4321]). After two or more actions have been *consolidated for all purposes* under a single docket number pursuant to Rule 42(a)(2) of the Federal Rules of Civil Procedure, all future court papers and correspondence should be filed only in the docket under which the cases have been consolidated and should reference only that docket number.
- F. ECF.** In accordance with the [Electronic Case Filing Rules and Instructions](#), counsel are required to register promptly as ECF filers and to enter an appearance in the case. Counsel are responsible for updating their contact information on ECF, should it change, and they are responsible for checking the docket sheet regularly, regardless of whether they receive an ECF notification of case activity. For assistance with updating contact information, please contact the ECF Help Desk at [helpdesk@nysd.uscourts.gov](mailto:helpdesk@nysd.uscourts.gov) or (212) 805-0800; do not file a letter-motion advising the Court of the change.
- G. Urgent Communications.** As a general matter, materials filed via ECF are reviewed by the Court the business day after they have been filed. If a submission requires more immediate attention, the filing party should notify Chambers by telephone, consistent with the procedures required by paragraph 2(B), after filing the submission on ECF.
- H. Multi-Media Filings.** Any audio, video, or other multi-media filings shall be submitted on a USB drive and hand-delivered to the 200 Worth Street entrance in accordance paragraph 2(C).

### 3. Conferences

- A. In-Person Conferences.** Unless otherwise ordered by the Court, all in-person conferences will be held in Courtroom 706 of the Thurgood Marshall United States Courthouse, 40 Foley Square, New York NY, 10007. If any counsel wishes for a conference to be conducted remotely (by telephone or video), he or she should confer with all other counsel and promptly file a letter-motion to that effect in accordance with paragraph 4(A).
- B. Teleconferences.** Unless otherwise ordered by the Court, any proceeding held by telephone will be on the Court's dedicated conference line, which can be accessed

by calling (855) 244-8681 and then entering Attendee ID Number 2312 828 7066, followed by the pound (#) key. The following procedures shall apply to all teleconferences with the Court:

- i. Counsel should use a landline whenever possible, should use a headset instead of speakerphone, and must mute themselves whenever they are not speaking to eliminate background noise.
- ii. To facilitate orderly teleconferences and the creation of an accurate transcript where a teleconference is held on the record, counsel are required to identify themselves *every time they speak*. Counsel should spell any proper names for the court reporter. Counsel should also take special care not to interrupt or speak over one another.
- iii. If there is a beep or chime indicating that a new caller has joined while counsel is speaking, counsel should pause to allow the Court to ascertain the identity of the new participant and confirm that the court reporter has not been dropped from the call.
- iv. Broadcasting or recording of any court conference is prohibited by law.

**C. Attendance by Principal Trial Counsel.** Absent leave of the Court, the attorney who will serve as principal trial counsel must appear at all conferences with the Court. Any attorney appearing before the Court must enter a notice of appearance on ECF.

**D. Discovery Disputes.** Parties must follow Local Civil Rule 37.2 with the following modifications. Any party wishing to raise a discovery dispute with the Court must first confer in good faith with the opposing party, in person or by telephone, in an effort to resolve the dispute. If this meet-and-confer process does not resolve the dispute, the party seeking discovery shall promptly file on ECF a letter-motion, no longer than four pages, explaining the nature of the dispute and, if applicable, why the party is entitled to relief and requesting an informal conference. Any letter-motion seeking relief must include a representation that the meet-and-confer process occurred and was unsuccessful. Any opposition to a letter-motion seeking relief shall be filed as a letter, not to exceed four pages, within three business days. Counsel should be prepared to discuss with the Court the matters raised by such letters, as the Court will seek to resolve discovery disputes quickly, by order (based on the letters alone) or in a conference. Counsel should seek relief in accordance with these procedures in a timely fashion; if a party waits until near the close of discovery to raise an issue that could have been raised earlier, the party is unlikely to be granted the relief that it seeks or more time for discovery.

**E. Participation by Junior Attorneys.** The Court encourages the participation of less experienced attorneys in all proceedings—including pretrial conferences, hearings on discovery disputes, oral arguments, and examinations of witnesses at

trial — particularly where that attorney played a substantial role in drafting the underlying filing or in preparing the relevant witness. The Court may be inclined to grant a request for oral argument, which it generally disfavors, where doing so would afford the opportunity for a junior attorney to gain courtroom experience. Nevertheless, at least one attorney appearing before the Court must have authority to bind the party they represent consistent with the proceeding (for example, by agreeing to a discovery or briefing schedule), and should be prepared to address any matters likely to arise at the proceeding.

#### **4. Motions and Pretrial Procedure**

- A. Letter-Motions.** When permitted by the [S.D.N.Y. Local Rules](#) and the S.D.N.Y. [Electronic Case Filing Rules and Instructions](#), letters seeking relief should be filed on ECF as letter-motions, *not* as ordinary letters. In particular, all requests for adjournments, extensions, and pre-motion conferences (including pre-motion conferences with respect to discovery disputes) should be filed as letter-motions.
- B. Pre-Motion Conferences in Civil Cases.** Pre-motion conferences are not required, except for disputes concerning discovery, which are governed by paragraph 3(D) above.
- C. Memoranda of Law.** The typeface, margins, spacing, and length of motion papers must conform to Local Civil Rule 7.1 (or, in the case of a motion for reconsideration, Local Civil Rule 6.3). Per Local Civil Rule 7.1, memoranda of law in support of and in opposition to motions (other than motions for reconsideration) are limited to 8,750 words, and reply briefs are limited to 3,500 words. Memoranda of 3,500 words or more shall contain a table of contents and a table of authorities. Sur-reply memoranda will not be accepted without prior permission of the Court. All appendices to memoranda of law must be indexed.
- D. Unpublished Cases.** If a party cites a case not available in an official reporter, it should not provide copies of the case to Chambers if the case is available on Westlaw or Lexis.
- E. Oral Argument on Motions.** The Court does not routinely hold oral argument on motions. But a party may request oral argument by indicating “ORAL ARGUMENT REQUESTED” on the cover page of its memorandum of law. If a party believes that the Court would benefit from oral argument for a particular reason not obvious from the parties’ briefing, the party may file a letter—*not* a letter-motion—explaining the reason on ECF. Additionally, a party should advise the Court by letter if oral argument would be handled by a less experienced attorney because, as discussed in paragraph 3(E) above, that may make the Court more inclined to hold oral argument. If oral argument is requested, the Court will determine whether argument will be heard and, if so, advise counsel of the argument date.

**F. Initial Case Management Conference.** The parties shall submit a proposed Civil Case Management Plan and Scheduling Order to the Court at least seven calendar days before the initial case management conference.

**G. Summary Judgment Motions**

- i. If the parties contemplate filing summary judgment motion(s), they shall first confer and jointly propose a briefing schedule for such motion(s) in a letter to the Court. Where *cross-motions* are anticipated, to avoid redundancy, the parties should propose a briefing schedule with deadlines for: (1) one party to file the initial motion; (2) the other party to file a cross-motion, with a single, consolidated memorandum of law supporting the cross-motion and opposing the initial motion; (3) the first party to file a single, consolidated memorandum of law replying in support of the initial motion and opposing the cross-motion; and (4) the cross-moving party to file a reply in support of the cross-motion.
- ii. With respect to any deposition that is supplied, whether in whole or in part, in connection with a summary judgment motion, the index to the deposition should be included if it is available.
- iii. The parties should provide the Court with an electronic, text-searchable copy of any hearing or deposition transcript, or portion thereof, on which the parties rely, if such a copy is available, unless doing so would be unduly burdensome.
- iv. Memoranda of law should include sections discussing the relevant background and facts. Parties should not merely incorporate by reference their Local Civil Rule 56.1 Statements or Counterstatements.
- v. The parties are directed to review Local Civil Rule 56.1, including its requirements that a party's statement of material facts be "short," "concise," and contain only facts as to which "there is no genuine issue to be tried." The Court strongly encourages parties to confer and file a joint statement of undisputed material facts. Excessively voluminous or otherwise improper Rule 56.1 statements will be stricken and the parties will be directed to refile proper statements.

**H. Preliminary Injunction Motions.** The Court generally follows the procedure for the conduct of non-jury trials described in paragraph 5(E) below.

**I. Motions to Exclude Testimony of Experts.** Unless the Court orders otherwise, motions to exclude the testimony of experts, pursuant to Rules 702-705 of the Federal Rules of Evidence and *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), and its progeny, must be made by the deadline for dispositive motions and should not be treated as motions *in limine*. Absent leave

of the Court, the moving party must file a single motion and single, consolidated memorandum of law, consistent with paragraph 4(C) above, even when seeking to exclude the testimony of multiple experts.

**J. Default Judgment Motions.** If a party fails to respond to a claim, the party asserting the claim should promptly move for entry of default judgment if appropriate. If a failure to answer is the basis for the default, the party seeking a default judgment must begin by seeking a Clerk's Certificate of Default pursuant to Local Civil Rule 55.1. Only *after* obtaining a Clerk's Certificate of Default should the party proceed to filing a motion for default judgment on ECF pursuant to Federal Rule of Civil Procedure 55(b)(2) and Local Civil Rule 55.2. (Counsel should therefore seek and obtain a Clerk's Certificate of Default well in advance of any Court-imposed deadline to move for default judgment.)

A party seeking a default judgment should *not* proceed by order to show cause. Any motion for default judgment must be supported by the following papers:

- i. an attorney's affidavit or declaration pursuant to Local Civil Rule 55.2(a)(1);
- ii. a statement of damages, sworn or affirmed to by one or more people with personal knowledge, showing the proposed damages and the basis for each element of damages, including interest, attorney's fees, and costs;
- iii. a memorandum of law setting forth:
  - (a) the basis for entering a default judgment, including a description of the method and date of service of the summons and complaint;
  - (b) the procedural history beyond service of the summons and complaint, if any;
  - (c) legal authority for why such service was proper;
  - (d) the basis for subject-matter and personal jurisdiction;
  - (e) whether, if the default is applicable to fewer than all of the counterparties, the Court may appropriately order a default judgment on the issue of damages prior to resolution of the entire action;
  - (f) legal authority for why an inquest into damages would be unnecessary;



- iv. if the proposed damages are supported by calculations, native versions of the files with calculations (i.e., versions of the files in their original format, such as in “.xlsx”), which shall be emailed to Chambers at OetkenNYSDChambers@nysd.uscourts.gov;
- v. a proposed default judgment;
- vi. copies of all the operative pleadings;
- vii. a copy of the affidavit of service of the summons and complaint; and
- viii. a certificate of service stating that all documents in support of the request for default judgment have been personally served on or mailed to the party against whom default judgment is sought, pursuant to Local Civil Rule 55.2(a)(3), which shall be filed within 14 days of the filing of the motion for default judgment.

**K. Proposed Stipulations and Orders.** In accordance with the [Local Rules](#) and the [Electronic Case Filing Rules and Instructions](#), parties should file on ECF all proposed stipulations and orders that they wish the Court to sign, using the appropriate ECF filing event. *See* SDNY ECF Rules & Instructions §§ 13.17-19 & App’x A. Counsel should also email an electronic copy of any proposed orders to Chambers, in both PDF and Word formats. As noted above, requests for extensions and adjournments must be made by letter-motion, not by proposed stipulation or proposed order.

**L. Applications for Temporary Restraining Orders.** A party should confer with its adversary before making an application for a temporary restraining order unless the party seeking relief is able to satisfy the requirements for obtaining temporary relief without notice to the adverse party set forth in Rule 65(b)(1) of the Federal Rules of Civil Procedure. In the absence of an emergency that would justify seeking immediate relief in person:

- i. if the party seeking relief believes that Rule 65(b)(1)’s requirements can be met and a temporary restraining order should issue without notice to the adverse party, the party should file its papers on ECF under seal (or, if ECF is not a viable option, by email to Chambers at OetkenNYSDchambers@nysd.uscourts.gov) and then call Chambers at (212) 805-0266; or
- ii. if the party seeking relief is prepared to seek relief on notice to the adverse party, the party seeking relief should simultaneously file its papers on

ECF, serve them on all other parties, and then call Chambers with all parties on the line (at the number above).

**M. Settlement Agreements.** Unless the Court orders otherwise, the Court will not retain jurisdiction to enforce confidential settlement agreements. If the parties wish that the Court retain jurisdiction to enforce a settlement agreement, the parties must place the terms of their agreement on the public record. The parties may either provide a copy of the settlement agreement for the Court to endorse or include the terms of their settlement agreement in their stipulation of settlement and dismissal.

Settling parties in cases brought under the Fair Labor Standards Act should also refer to *Cheeks v. Freeport Pancake House, Inc.*, 796 F.3d 199 (2d Cir. 2015), and *Wolinsky v. Scholastic Inc.*, 900 F. Supp. 2d 332 (S.D.N.Y. 2012).

**N. Bankruptcy Appeals.** The parties must comply with the briefing schedule and the format and length specifications set forth in the Federal Rules of Bankruptcy Procedure 8014-8018 unless otherwise ordered by the Court.

## **5. Trial Submissions and Procedures**

**A. Joint Pretrial Order.** Unless otherwise ordered by the Court, no later than thirty days after the date for the completion of all discovery or, in the event a dispositive motion is filed, no later than thirty days after the Court's ruling on such motion, the parties shall both file on ECF, as a "Joint Pretrial Statement," and submit by email to the Court (OetkenNYSDchambers@nysd.uscourts.gov) a proposed joint pretrial order, which shall include the following:

- i. the full caption of the action;
- ii. the names, law firms, addresses, telephone number, and email addresses of trial counsel if not already listed on the docket;
- iii. a brief statement by plaintiff (or, in a removed case, by defendant) as to the basis of subject-matter jurisdiction, and a brief statement by each other party as to the presence or absence of subject-matter jurisdiction. Such statements shall include citations to all statutes relied on and relevant facts as to citizenship and jurisdictional amount;
- iv. a brief summary by each party of the claims and defenses that the party asserts remain to be tried, including citations to any statutes on which the party relies. Such summaries shall also identify all claims and defenses previously asserted that are not to be tried. The summaries should not recite any evidentiary matter;

- v. a statement as to the number of trial days needed and whether the case is to be tried with or without a jury;
- vi. a joint statement summarizing the nature of the case, to be read to potential jurors during jury selection;
- vii. a list of people, places, and institutions (in alphabetical order) that are likely to be mentioned during the course of the trial, to be read to potential jurors during jury selection;
- viii. a statement as to whether all parties have consented to trial by a magistrate judge, without identifying which parties do or do not consent;
- ix. any stipulations or agreed statements of fact or law to which all parties consent. In a jury case, the parties should memorialize any such stipulations or agreed statements of fact or law in a standalone document that can be marked and admitted at trial;
- x. a list of all trial witnesses (in alphabetical order), indicating whether such witnesses will testify in person or by deposition, whether such witnesses will require an interpreter (and, if so, which party will pay the costs for the interpreter), and a brief summary of the substance of each witness's testimony. Absent leave of the Court, a witness listed by both sides shall testify only once (with the defendant permitted to go beyond the scope of the direct on cross-examination), and counsel should confer with respect to scheduling;
- xi. designations by each party of deposition testimony to be offered in its case-in-chief and any and counter-designations as follows:
  - (a) a chart listing (1) the designations and counter-designations; (2) any objections, including the bases for such objections; (3) a brief response to each objection; and
  - (b) transcripts of each relevant deposition with designations, counter-designations, and objections highlighted in different colors.

The parties need not designate deposition testimony to be used for impeachment purposes only. The parties should limit their designations to those that they actually intend to use at trial;

- xii. a list by each party of all exhibits to be offered in its case-in-chief, with a single asterisk indicating exhibits to which no party objects on any ground. If a party objects to an exhibit, the objection should be noted by indicating the Federal Rule of Evidence that is the basis for the objection. If any party believes that the Court should rule on such an objection in advance

of trial, that party should include a notation to that effect (e.g., “Advance Ruling Requested”) as well. In general, the Court will rule on relevance and authenticity objections at the time of trial;

- xiii. a statement of the damages claimed and any other relief sought, including the manner and method used to calculate any claimed damages and a breakdown of the elements of such claimed damages; and
- xiv. a statement of whether the parties consent to less than a unanimous verdict.

**B. Required Pretrial Filings.** Unless otherwise ordered by the Court, each party shall file with the joint pretrial order:

- i. in all cases, motions addressing any evidentiary issues or other matters that should be resolved *in limine*. Absent leave of the Court, each party must file a single memorandum of law, consistent with paragraph 4(C) above, in support of *all* motions *in limine* filed by that party. No motion *in limine* will be considered or decided unless the moving party’s memorandum of law includes a certification that, prior to filing the motion, the parties conferred, in person or by telephone, in a good faith effort to resolve the issue(s) asserted in the motion without the intervention of the Court and were unable to reach an agreement;
- ii. in all jury cases, joint requests to charge, joint proposed verdict forms, and joint proposed *voir dire* questions as specified by paragraph 5(D) below;
- iii. in all non-jury cases, proposed findings of fact and conclusions of law. The proposed findings of fact should be detailed and should include citations to the proffered trial testimony and exhibits, as there may be no opportunity for post-trial submissions. At the time of filing, parties should also submit copies of these documents to the Court by email (OetkenNYSDchambers@nysd.uscourts.gov), both in .pdf format and as a Microsoft Word document;

**C. Electronic Copies of Exhibits and Exhibit Lists.** Unless otherwise ordered by the Court, the parties shall also submit with the joint pretrial order (but not file on ECF) an electronic copy of each exhibit sought to be admitted (with each filename corresponding to the relevant exhibit number — e.g., “PX-1,” “DX-1,” etc.). (If the files are too large for submission by email, follow the directives for multi-media filings, see paragraph 2(H) above.) If submission of electronic copies would be an undue burden on a party, the party may seek leave of the Court (by letter-motion filed on ECF) to submit prospective documentary exhibits in hard copy, which should be pre-marked with exhibit numbers.

The parties shall email to the Court (OetkenNYSDChambers@nysd.uscourts.gov) a Microsoft Word document listing all exhibits sought to be admitted. The list shall contain four columns labeled as follows: (1) “Exhibit Number”; (2) “Description” (of the exhibit); (3) “Date Identified”; and (4) “Date Admitted.” The parties shall complete the first two columns, but leave the third and fourth columns blank. Unless the Court orders otherwise, the parties shall confer at the end of each trial day and, no later than the beginning of the next trial day, email to the Court an updated list indicating (in the third and fourth columns) each exhibit that was identified and/or admitted.

**D. Requests to Charge and Proposed *Voir Dire*.** Unless otherwise ordered by the Court, in all jury trials, joint requests to charge, joint proposed verdict forms, and joint proposed *voir dire* questions shall be submitted as attachments to the proposed joint pretrial order. For any request to charge or proposed *voir dire* question on which the parties cannot agree, each party should clearly set forth its proposed charge or question, and briefly state why the Court should use its proposed charge or question, with citations to supporting authority. Absent good reason, the parties should not include proposed language for standard instructions (about, for example, the role of the Court and the jury, the standard of proof, etc.), as the Court is likely to use its own standard instructions; instead, the parties should include a list of standard instructions that they believe are appropriate and focus their attention on case-specific requests to charge. At the time of filing, the parties should also submit copies of these documents to the Court by email (OetkenNYSDChambers@nysd.uscourts.gov) as Microsoft Word documents.

**E. Additional Submissions in Non-Jury Cases.** Unless otherwise ordered by the Court, at the time the joint pretrial order is filed, each party in a non-jury trial shall submit to the Court by email (OetkenNYSDchambers@nysd.uscourts.gov) and serve on opposing counsel, but not file on ECF, the following:

- i. copies of affidavits constituting the direct testimony of each trial witness, except for the direct testimony of an adverse party, a person whose attendance is compelled by subpoena, or a person for whom the Court has agreed to hear direct testimony live at the trial. The affidavit should be treated as a direct substitute for the witness’s live testimony; that is, counsel should be attentive to the Rules of Evidence (e.g., hearsay and the like) and authenticate any exhibits that will be offered through that witness’s testimony. Three business days after submission of such affidavits, counsel for each party shall submit a list of all affiants whom he or she intends to cross-examine at the trial. Only those witnesses who will be cross-examined need to appear at trial. The original signed affidavits should be brought to trial to be marked as exhibits, at which time any objections to particular paragraphs of an affidavit can be made; and
- ii. all deposition excerpts that will be offered as substantive evidence, as well as a one-page synopsis of those excerpts for each deposition. Each

synopsis shall include page citations to the pertinent pages of the deposition transcripts.

**F. Filings in Opposition.** Unless otherwise ordered by the Court, any party may file the following documents within one week after the filing of the pretrial order, but in no event less than three days before the scheduled trial date:

- i. opposition to any motion *in limine*; and
- ii. opposition to any legal argument in a pretrial memorandum.

## **6. Redactions and Sealed Filings**

**A. Redactions Not Requiring Court Approval.** The parties are referred to Rule 5.2 of the Federal Rules of Civil Procedure and the [Southern District's ECF Privacy Policy](#) ("Privacy Policy"). There are two categories of information that may be redacted from public court filings without prior permission from the Court: "sensitive information" and information requiring "caution." Parties should not include in their public filings, unless necessary, the five categories of "sensitive information" (i.e., social security numbers [use the last four digits only], names of minor children [use the initials only], dates of birth [use the year only], financial account numbers [use the last four digits only], and home addresses [use only the City and State]). Parties may also, without prior Court approval, redact from their public filings the six categories of information requiring caution described in the Privacy Policy (i.e., any personal identifying number, medical records [including information regarding treatment and diagnosis], employment history, individual financial information, proprietary or trade secret information, and information regarding an individual's cooperation with the government).

**B. Redactions and Sealed Filings Requiring Court Approval.** Except for redactions permitted by the previous paragraph, all redactions or sealing of public court filings require Court approval. To be approved, any redaction or sealing of a court filing must be narrowly tailored to serve whatever purpose justifies the redaction or sealing and must be otherwise consistent with the presumption in favor of public access to judicial documents. *See, e.g., Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-20 (2d Cir. 2006). In general, neither the parties' consent nor the fact that information is subject to a confidentiality agreement between litigants is, by itself, a valid basis to overcome the presumption in favor of public access to judicial documents. *See, e.g., In re Gen. Motors LLC Ignition Switch Litig.*, No. 14-MD-2543, 2015 WL 4750774, at \*4 (S.D.N.Y. Aug. 11, 2015).

**C. Procedures for Filing Sealed or Redacted Documents.** Any party seeking to file a document under seal or in redacted form shall proceed as follows:

- i. **Meet and Confer.** The party should meet and confer with any opposing

party (or any third party seeking confidential treatment of the information) in advance to narrow the scope of the request. When a party seeks leave to file a document under seal or in redacted form on the ground that an opposing party or third party has requested it, the filing party shall notify the opposing party or third party that it must file, within three business days, a letter explaining the need to seal or redact the document.

- ii. **Sealed Document(s).** The party shall file a letter-motion seeking leave to file a document under seal on ECF in accordance with Standing Order 19-MC-583 and Section 6 of the S.D.N.Y. [Electronic Case Filing Rules and Instructions](#). The letter-motion itself shall be filed in public view, should explain the reasons for seeking to file the document under seal, and should not include confidential information. The proposed sealed document shall be contemporaneously filed under seal on ECF (with the appropriate level of restriction) and electronically related to the motion (or to the relevant Court order if the Court previously granted leave to file the document under seal). Note that the summary docket text, but not the document itself, will be open to public inspection and, thus, should not include confidential information sought to be filed under seal.
- iii. **Redacted Document(s).** Where a party seeks leave to file a document in redacted form, the party shall file a letter-motion seeking leave to file a document in redacted form on ECF in accordance with Standing Order 19-MC-583 and Section 6 of the S.D.N.Y. [Electronic Case Filing Rules and Instructions](#). The letter-motion itself shall be filed in public view, should explain the reasons for seeking to file the document in redacted form, and should not include confidential information. At the same time, the party shall (1) publicly file on ECF and electronically relate to the letter-motion a copy of the document with the proposed redactions; and (2) file under seal on ECF (with the appropriate level of restriction) and electronically relate to the motion an unredacted copy of the document with the proposed redactions highlighted.
- iv. **Submission by Email and Sealed Cases.** For cases that are entirely *under seal*, or where a party is unable to comply with the requirements for electronic filing under seal through the ECF system (or believes that a particular document should not be electronically filed at all), the party shall submit any filing by email—at [OetkenNYSDchambers@nysd.uscourts.gov](mailto:OetkenNYSDchambers@nysd.uscourts.gov)—as a text-searchable .pdf attachment with a copy simultaneously delivered to all counsel. Any such email shall state clearly in the subject line: (1) the caption of the case, including the lead party names and docket number; and (2) a brief description of the contents of the letter. Parties may not include substantive communications in the body of the email; such communications may be included only in the body of the letter.

## 7. Use of Electronic Devices

The use of electronic devices (including mobile telephones, personal electronic devices, and computers) within the Courthouse and its environs is governed by the Court's Standing Order M10-468, available at <https://nysd.uscourts.gov/sites/default/files/2018-06/standing-order-electronic-devices.pdf>. If required by the Standing Order, counsel seeking to bring a device into the Courthouse shall submit an [Electronic Device and Wi-Fi Access Request Form](#), available on the Court's website, to the Court by e-mail (OetkenNYSdchambers@nysd.uscourts.gov) as early as possible—and certainly no later than *three business days* before the start of the trial or hearing, or *one week if Wi-Fi is requested*. Requests submitted later than three business days prior to the relevant trial or hearing may be denied on that basis alone. *If permitted by the Standing Order, mobile telephones are permitted inside the Courtroom, but they must be kept turned off at all times*. Non-compliance with this rule may result in forfeiture of the device for the remainder of the proceedings.